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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/536,920	05/31/2005	Jeroen Alexander Gross	NL 021219	6578
24737 7590 02/01/2008 PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510			EXAMINER NGUYEN, PHONG H	
			ART UNIT 3724	PAPER NUMBER
			MAIL DATE 02/01/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/536,920	Applicant(s) GROSS, JEROEN ALEXANDER	
	Examiner Phong H. Nguyen	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
 4a) Of the above claim(s) 10 and 11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 12 and 13 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 May 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>05/31/05&03/15/06</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Election/Restrictions

1. This application contains claims directed to the following patentably distinct species:

Species A: the combination of a liquid dispenser and a hair removing device, drawn to claims 2-9, 12 and 13.

Species B: the combination of a hair trimmer and a hair removing device, drawn to claims 10 and 11.

The species are independent or distinct because each of them has a special technical feature. For example, the special technical feature of Species A is the hair removing device and the special technical features of Species B is the hair trimmer.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 1 is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations

of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

During a telephone conversation with Mr. Paul IM on 01/25/2008 a provisional election was made without traverse to prosecute the invention of Species A, claims 1-9, 12 and 13. Affirmation of this election must be made by applicant in replying to this Office action. Claims 10 and 11 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Oath/Declaration

2. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It does not state that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in 37 CFR 1.56.

Claim Objections

3. Claims 2 and 9 are objected to because of the following informalities:

Claim 2, line 5, "an pushing position" should be likely --a pushing position--.

Claim 9, line 3, "form" should be likely --from--.

Appropriate correction is required.

Drawings

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims.

In claim 1, the motor (1) operatively coupled the hair removing device (13), and the displacement of the control member (4) between the first operating condition and the second operating condition must be shown or the feature(s) canceled from the claim(s).

No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency.

Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-9, 12 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the hair-removing device" in lines 7-8. There is insufficient antecedent basis for this limitation in the claim.

Regarding claim 3, the phrase "said first condition than in said second operating condition" is confusing.

Claim 7 recites the limitation "the apparatus" in line 4. There is insufficient antecedent basis for this limitation in the claim.

The preamble of claims 2-9, 12 and 13 calls for "a device according to claim". There are two devices in claim 1 which are an electric personal care device and a hair removing device. The Applicant should clearly point out which device he refers to.

Claim 12 recites the limitation "said distal portion" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1, 2 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Furst et al. (6,594,905), hereinafter Furst.

Regarding claim 1, Furst teaches an electric personal care device for dispensing a liquid, comprising:

a housing (1) having a liquid outlet 214;

a liquid channel (32) leading to the liquid outlet (214);

a pump (13) for causing liquid displacement through the liquid channel (32) to the liquid outlet (214);

a motor (50) operatively coupled to the hair-removing device (not shown) for driving movement of at least a movable part of the device;

a transmission coupled to the motor (52 and 54) to be driven thereby and coupled to the pump (13) for imparting movement to at least a movable part (63) of the pump (13) while in an operating condition, thereby causing pumping action by the pump; and

a control structure (bottom and top portion of the container 5) operable between at least a first and a second operating condition for dispensing liquid at different rates (see the Examiner's interpretation below);

characterized in that the control structure is arranged for controlling amounts of movement transmitted by the transmission to at least the movable part of the pump such

that, in the first and second operating conditions, different amounts of movement are transmitted by the transmission to at least the movable part (63) of the pump.

It is to be noted that the liquid is pumped out of a container (5) due to the striking of the arm 54 onto the elastic pump 63. When a user touches the bottom portion of the container (5) and pushes it up to the highest position as shown in solid line in Fig. 9, the striking force of the arm 54 is at maximum. Therefore, the liquid in the container (5) is disposed into the chamber 214 with a maximum rate. When a user touches the top portion of the container (5) and slightly pushes it down half way between the highest position and the lowest position as shown in dashed line in Fig. 9, the striking force of the arm 54 is less than the maximum striking force. Therefore, the liquid in the container (5) is disposed into the chamber 214 with a rate less than a maximum rate. Since sliding the container (5) changes the flowing rate of the liquid, the top portion and the bottom portion of the container (5) is considered a control structure.

See Figs. 1, 2 and 9-11

Regarding claim 2, the pump (13) having a resilient wall (63) is best seen in Fig. 10. The transmission having a pushing member (54) is best seen in Fig. 10. The top portion and the bottom portion of the container (5) control the displacement of the resilient wall which varies the flowing rate of the liquid.

Regarding claim 12, the distal portion (the end that contacts the pump 13) of the pushing member pushes the resilient wall (63). See Figs. 9 and 10.

Allowable Subject Matter

9. Claims 3-9 and 13 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: claim 3 is allowable for setting forth the control mean being located between the pushing member and the resilient wall, and having an inclined surface.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Wert, Gwinn, Lopez, Patrakis and Westerhof teach hair trimming devices having fluid dispensers of general interest.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phong H. Nguyen whose telephone number is 571-272-4510. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Application/Control Number:
10/536,920
Art Unit: 3724

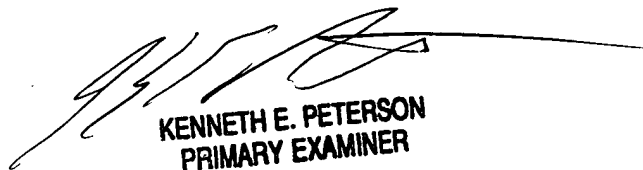
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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

PN:



January 25, 2008



KENNETH E. PETERSON
PRIMARY EXAMINER